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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,937	03/22/2004	Kenneth R. Fahs	115/434-3	1032

7590 06/29/2005

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EXAMINER

NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/805,937	Applicant(s) FAHS ET AL.	
	Examiner Thu Khanh T. Nguyen	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-44 is/are pending in the application.
- 4a) Of the above claim(s) 35-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 17-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>===</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of group 1, claims 17-34 in the reply filed on June 06, 2005 is acknowledged.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 17-20 and 23-34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-14, 16-19, and 22-34 of U.S. Patent No. 6,797,306. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the USP 6,797,306 are fully encompassing the claims of the current application.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 17, 21-23, 25, 27, 29, 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Heath et al (5,494,622).

Heath et al disclose a web casting apparatus, comprising a discharge manifold (30) having a hollow interior chamber (Fig. 2, 30), a plurality of inlet openings connected to pipes (52, 92) for receiving material, a discharge opening (68) for discharging the material from the chamber, and a roller (42, 110) mounted adjacent to the chamber (30) for pressing the material into a layer.

In regard to claims 21-22, 27, Heath et al disclose that the inlets are connected to supply pipes (52, 92) for supply material to the hollow interior chamber (30).

In regard to claims 23, 31, and 33, Heath et al further discloses a casting belt for carrying out the material (124, 126, 128), wherein the belt is located adjacent to and down stream from the roller (Fig. 9, 110; col. 5, lines 53-57), wherein the gap (68) between the chamber and the roller determine the thickness of the web material.

In regard to claim 29, wherein the longitudinal axis of the roller (42, 110) is perpendicular to a longitudinal axis of the belt (124).

In regard to claims 25 and 32, Heath et al disclose that the roller and the belt are rotating during the process (col. 14, lines 51-58). Therefore, it inherently discloses a driving means for rotating the roller and the casting belt, because the roller and the belt cannot be rotated without a driving means.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 18-20, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath et al ('622) as apply to claims 17, 21-23, 25, 27, 29, 31-33 and further in view of Meyer et al (3,801,255).

Heath et al fail to disclose a valve at the inlet for regulating the feed material.

Meyer et al disclose an automatic casting apparatus, comprising a plurality of feed inlets (380) connected to regulating valves (381) for regulating the casting material feeding into the mold (55).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Heath et al by providing regulating valves at the feeding pipes as taught by Meyer et al in order to regulate the molding material being casting into a web.

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heath et al (5,494,622) as applied to claims 17, 21-23, 25, 27, 29, 31-33 above, and further in view of Collins (4,815,370).

Heath et al disclose a casting apparatus with a pressing roller as described above, but fails to disclose that the roller is made of steel and have a plastic sleeve.

Collins discloses press rollers having a hollow steel hub with a replaceable rubber surface (col. 1, lines 27-28).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Heath et al by providing a steel roller with a rubber surface as

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taught by Collins, because steel has been well known for making press apparatus, while the rubber surface would provide a smooth surface to the forming web.

9. Claims 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heath et al ('622) as applied to claims 17, 21-23, 25, 27, 29, 31-33 above, and further in view of Skovhage et al (4,976,981).

Heath fails to disclose a pump and that the casting belt located along a part of the chamber.

Skovhage et al disclose an apparatus for shaping a layer of cheese before cutting it into blocks, comprising a pump (6), a casting belt (19), and pressing means (27) with pressing belt and pressing rollers disposed above the casting belt.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Heath by providing a pump and relocate the pressing roller and relocate the casting belt in contact with the feeding chamber as taught by Skovhage et al because the pump would facilitate the feeding of the material, and when the casting belt being located under the feeding chamber, the material could come into contact with the casting belt sooner and in a more uniform manner (col. 5, lines 63-68).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN



ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300, 200

6/26/05